

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-21-10
ROLLING ACRES ESTATES
JANUARY 24, 2022

I. GENERAL INFORMATION

A. Project Description

The proposal is for preliminary plat approval of an eight-lot residential subdivision. The lots would be served by individual wells and individual septic systems. Access to the lots would be from new internal subdivision roads via Middle Road.

B. Project Personnel

i. Owner/Applicant

Bruce & Cheryl Wiederspiel
2783 Columbia Falls Stage
Columbia Falls, MT 59912

ii. Technical Representative

TD&H Engineering, Inc.
450 Corporate Drive, Suite #101
Kalispell, MT 59901

C. Application Review Dates

1. Land Use Advisory Committee/Council

The proposal is not located within the jurisdiction of a land use advisory committee.

2. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on February 9, 2022 at 6:00 P.M. in the Second Floor Conference Room of the South Campus Building located at 40 11th Street West in Kalispell, MT. A recommendation from the Planning Board will be forwarded to the Flathead County Board of Commissioners for their consideration.

3. Commission

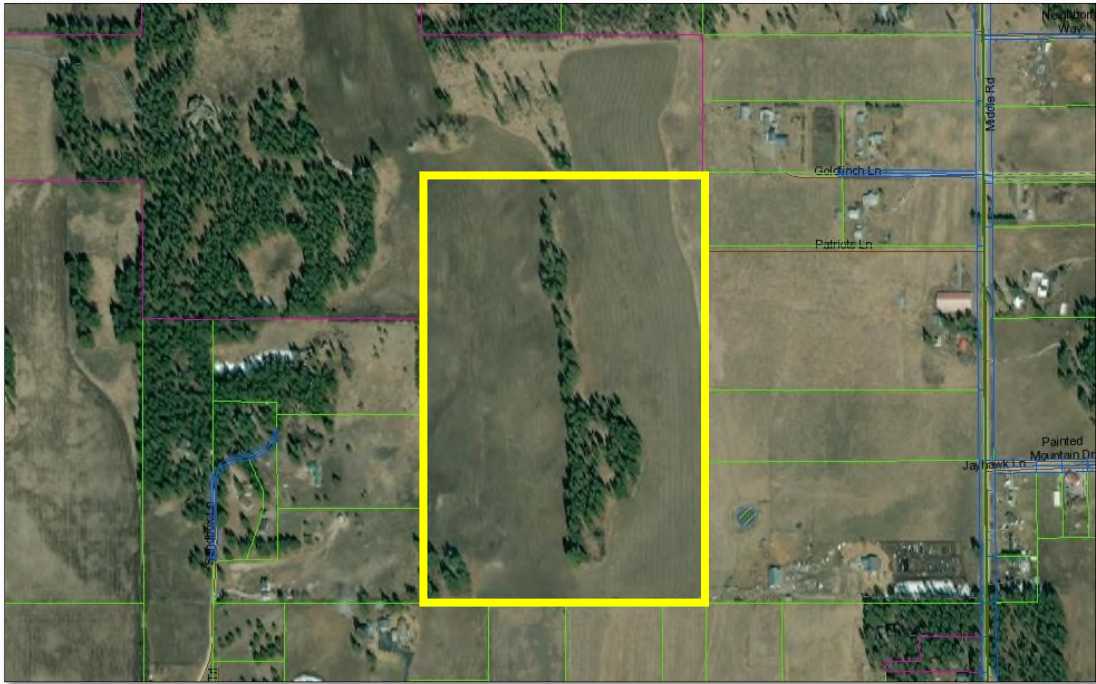
The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to March 8, 2022, which is the end of the 60-working day statutory review period.

II. ADMINISTRATIVE CHARACTERISTICS

A. Legal Description and Detailed Location of Subject Property

The subject property is 60.00 acres and located just west of Middle Road near Columbia Falls, MT. The property can legally be described as a tract of land in the South Half of the Southwest Quarter of the Northeast Quarter and Northwest Quarter of the Southeast Quarter in Section 32, Township 30 North, Range 20 West, P.M.M., Flathead County, Montana.

Figure 1: Aerial of subject property outlined in yellow



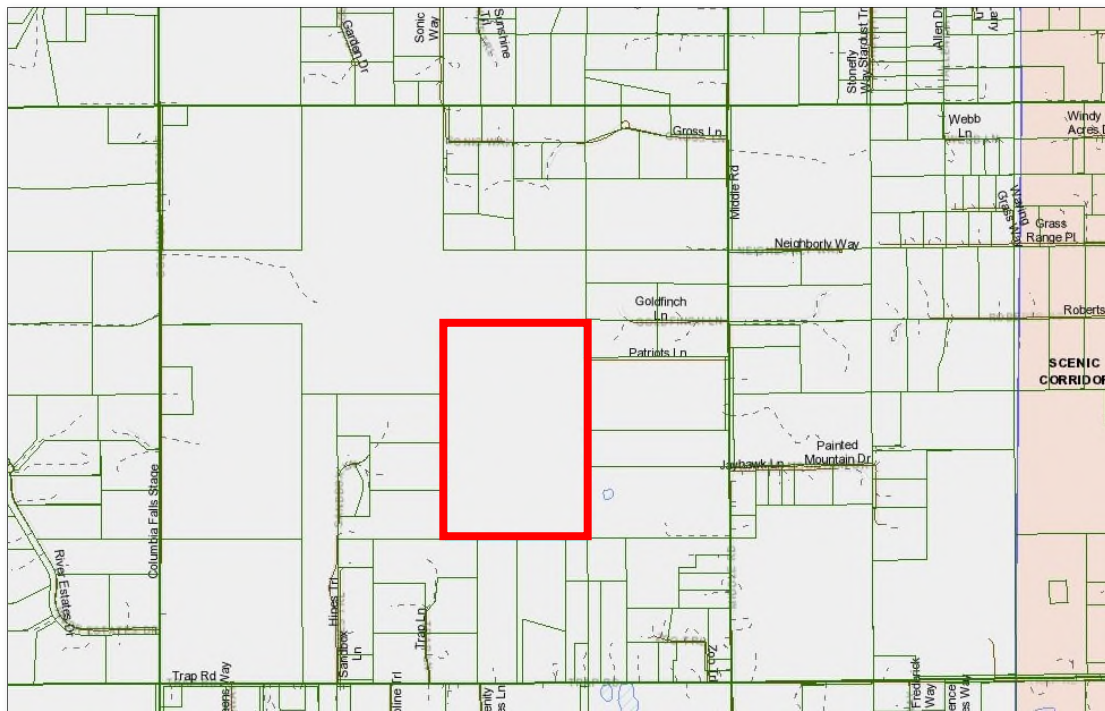
B. Subdivision Layout Detail

1. Total Subdivision Acreage:	60.00 acres
2. Acreage in Lots:	57.98 acres
3. Acreage in Roads:	2.02 acres
4. Total Open Space Acreage:	0.00 acres
5. Minimum Lot Size:	6.37 acres
6. Maximum Lot Size:	8.31 acres
7. Density:	1 unit per 7.5 acres

C. Current Land Use and Zoning

The subject property is currently not zoned (see Figure 2). The property is undeveloped and has historically been in agricultural production.

Figure 2: Surrounding zoning, subject property outlined in red



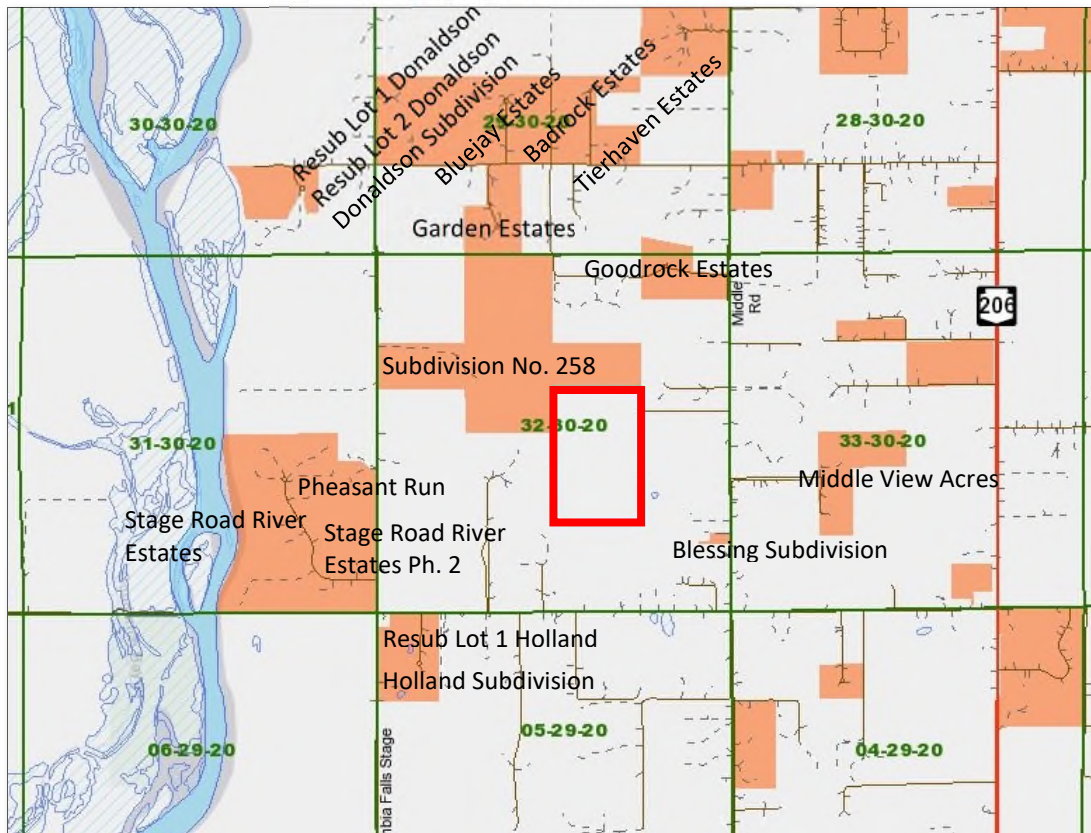
D. Proposed Land Use

The proposed subdivision would create eight residential lots. The average size of lots within the subdivision would be 7.5 acres. No common area/open space is proposed. New internal subdivision roads would provide access to lots within the subdivision via Middle Road.

E. Previously Considered Subdivisions in Area

Subdivision Name (year approved)	Type	Total Lots	Average Lot Size
Subdivision No. 258 (2005)	Residential	1	20.5 acres
Garden Estates (2004)	Residential	5	4.3 acres
Good Rock Estates (2004)	Residential	5	4.0 acres
Bluejay Estates (2000)	Residential	8	4.6 acres
Donaldson Subdivision (1996)	Residential	3	13.3 acres
Resubdivision Lot 1 of Donaldson (2001)	Residential	2	5.0 acres
Resubdivision Lot 2 of Donaldson (2000)	Residential	2	5.0 acres
Badrock Estates (2006)	Residential	2	5.0 acres
Tierhaven Subdivision (2007)	Residential	5	4.4 acres
Pheasant Run Subdivision (2006)	Residential	8	5.4 acres
Stage Road River Estates (1997)	Residential	8	8.1 acres
Stage Road River Estates Ph. 2 (2005)	Residential	3	6.0 acres
Holland Subdivision (1994)	Residential	2	13.3 acres
Resubdivision of Lot 1 of Holland (2000)	Residential	4	5.7 acres
Blessing Subdivision (2000)	Residential	1	1.4 acres
Middle View Acres (1978)	Residential	5	3.1 acres

Figure 3 – Area subdivisions, subject property outlined in red



F. Utilities and Services

1. **Water** – Individual Wells
2. **Wastewater** – Individual Septic Systems
3. **Electricity** – Flathead Electric Cooperative
4. **Natural Gas** – NorthWestern Energy
5. **Solid Waste** – Evergreen Disposal
6. **Telephone Service** – CenturyLink
7. **School District(s)** – Columbia Falls School District
8. **Fire District(s)** – Badrock Fire District
9. **Police** – Flathead County Sheriff's Office

III. COMMENTS RECEIVED

A. Agency Comments

1. Referrals were sent to the following agencies on December 10, 2021:
 - Badrock Fire District
 - Bonneville Power Administration
 - Columbia Falls School District
 - DEQ
 - DNRC
 - Flathead City-County Health Department
 - Flathead Conservation District
 - Flathead County Address Coordinator/GIS Department

- Flathead County Road & Bridge Department
 - Flathead County Sheriff's Office
 - Flathead County Solid Waste District
 - Flathead County Superintendent of Schools
 - Flathead County Weeds & Parks Department
 - Montana Fish, Wildlife & Parks
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Bonneville Power Administration
 - Comment: "At this time, BPA does not object to this request, as the property is located approximately 1.18 miles away from the nearest BPA transmission lines or structures." Email received December 13, 2021
 - Flathead City-County Health Department – Environmental Health Services
 - Comment: "This office has reviewed the information provided and submits the following comments:
 - The proposed subdivision is subject to review under Title 76-4 Part 1, Sanitation in Subdivision, MCA. This review will address water supply, wastewater, storm water drainage and solid waste disposal.
 - This area may have perched groundwater and groundwater monitoring may be required during the monitoring season (March-June).
 - This project is not located within the Kalispell Air Pollution Control District as designated in Flathead Air Pollution Control Regulations. However, fugitive dust must be controlled during development." Letter received December 13, 2021
 - Flathead County GIS Department

Comment: "As depicted on the Preliminary Plat of Rolling Acres Estates, it appears that one 60' Road and Utility Right-of-Way is proposed to be built as access to the subdivision. This road originates on Middle Rd and is currently named Patriots Ln, but then changes names to Jayla Ln as it enters the subdivision on the Preliminary Plat. An additional north-south 60' Road and Utility Easement is also depicted as 'Patriots Ln', but this easement is not proposed to be built with a 22' asphalt surface like the main access road.

Flathead County Resolution No. 1626D requires that 'each road shall have the same name throughout its entire length', only allowing a road to change names if 'there is a substantial intersection' or 'municipal boundaries'. This road does not appear to meet either of those requirements. Furthermore, the Resolution also states that 'where a proposed road is a continuation of, or in alignment with, an approved road, it shall utilize the same road name as the approved road.'

With these guidelines in mind, it is the determination of the Flathead County GIS Department that the main road depicted on the Preliminary Plat of Rolling Acres Estates should retain the name 'Patriots Ln' for its entirety. The

north-south 60' Road and Utility Easement along the eastern boundary of Lot 1 does not need to be named at this time, but could be named if the developer wishes to choose another name. The name 'Jayla Ln' has not been approved and does not meet the road naming guidelines in Flathead County Resolution No. 1626D." Letter received December 14, 2021

- Montana Fish, Wildlife & Parks

Comment: [...] The proposed subdivision occurs in the Flathead Valley and is within a mile of the Flathead River, an important movement corridor for numerous wildlife species. The environmental assessment attached to the application suggests that most wildlife use of the area would be transitory in nature due to the agricultural aspects of the property and surrounding area. It is important to note that maintaining adequate habitat for those transitions to occur is important for maintaining wildlife populations. The current amount of residential development and resulting habitat fragmentation and loss in the Flathead Valley has negative cumulative impacts on virtually all wildlife populations. The environmental assessment also lists numerous species including white-tailed deer, elk, black bears, turkeys and upland gamebirds. Mountain lions and grizzly bears are also known to utilize this area and radio collared grizzly bears have frequented this area based on GPS collar locations.

Please note that MFWP has created a helpful document called Fish and Wildlife Recommendations for Subdivision Development in Montana (FWR) that can be accessed at: [...] MFWP's Living with Wildlife website is another helpful resource: [...] Here, landowners can find useful tips on living with a variety of species, lists of wildlife attractants (e.g., pet food, bird seed, BBQs, garbage, etc.), proper storage thereof, fencing to exclude wildlife, electric fencing options and other helpful information.

Based on information and best management practices related to these documents, the following recommendations would minimize impacts to wildlife habitat and movement across the property and limit future conflicts with black and grizzly bears.

In general, FWP recommends consolidated housing and leaving 'natural' or open areas for wildlife. By consolidating housing and leaving open areas, the overall developed footprint is minimized, allowing for some movement and use of the open areas by wildlife. The current plat proposal does not provide for open space.

Establish and enforce covenants that reduce attractants and bring wildlife, including bears, into conflict with homeowners.

- Fruit trees and berry-producing shrubs are a major attractant for bears, turkeys and other wildlife. We recommend covenants prohibit planting of fruit or berry producing trees or shrubs.
- Garbage should either be stored inside until the day it is picked up and/or the use of bear resistant garbage containers should be required.
- Covenants should restrict the raising of chickens or domestic poultry

as this is a primary attractant for bears drawing them into the neighborhood.

- Residents should also be advised to eliminate or carefully manage other attractants such as bird feeders, pet food, and BBQ grills.
- Wildlife-friendly fencing is encouraged. Electric fencing can be an effective deterrent to bears and can be utilized to protect small areas.
- More information specific to living with bears can be found on the FWP website (<https://fwp.mt.gov/conservation>) under the Bear Aware tab.

Feeding wildlife such as deer and turkeys is illegal per statute 87-6-216, and should this development move forward, residents should be informed of this law. Feeding wildlife creates an artificial attractant that can increase disease transmission, draw in predators, and result in property damage. Damage resulting from turkeys are a particular problem in this area and often the damage affects more than just the property where feeding is occurring.

Prevention is key to reducing wildlife conflicts.

Living with wildlife brings enjoyment to many, but it also comes with responsibilities. Wildlife-friendly fencing that allows movement across property, proper storage of attractants, electric fencing as a deterrent for bears, and covenants are all useful tools that can help mitigate future conflicts with wildlife, provide habitat security, and promote herd health while maintaining enjoyment of wildlife resources. Properly enforced covenants help reduce or eliminate many potential wildlife issues. [...]” Letter received 15 2021

- Flathead County Road and Bridge Department
 - Comment: “Thank you for the opportunity to comment on the above referenced application. At this point the County Road Department does not have any comments on this request.” Letter received December 21, 2021
- Columbia Falls School District #6
 - Comment: “We do have bus service in the area.” Email received December 22, 2021
- Flathead Conservation District
 - Comment: “After review of the proposed residential subdivision, the main concern of the Flathead Conservation District is the permanent loss of important agricultural lands.

Some of the area proposed for subdivision is identified as Prime Farmland and Prime Farmland if Irrigated. These farmlands are not plentiful and account for only approximately 1 percent of total acreage by soil classification in Flathead County. According to census data, farmable acreage and food production are decreasing in Flathead County. If developed it will result in a permanent loss of important agricultural land and may have future impacts on regional food security and access to locally produced crops. [...]” Letter received December 23, 2021

- Flathead County Solid Waste District
 - Comment: “Thank you for the opportunity to comment on the above referenced subdivision. The landfill capacity currently available is from 30 to 60 years based upon an annual tonnage increase of 2% per year respectively.

The District requests that all new subdivisions use a private hauler to bring the solid waste to the landfill. Owner hauling of solid waste from the subdivision should not be the primary method of disposal. Evergreen Disposal is the (PSC) Public Service Commission Licensed hauler in this area. Their business phone number is 406-257-1739.

After reviewing the project summary, I believe that the issue of solid waste disposal has been addressed. [...]” Letter received December 28, 2021

B. Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on January 19, 2022, legal notice was published in the Daily Interlake on January 23, 2022, and notice of the proposal and public hearing was physically posted onsite on January 24, 2022.

As of the date of the completion of this staff report, no public comments have been received regarding the proposal. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed in Section 76-3-608(3) MCA and the review procedure outlined in Section 4.1 of the Flathead County Subdivision Regulations (FCSR), effective December 3, 2018.

1. Agriculture and Agricultural Water User Facilities

The Environmental Assessment (EA) states, “A portion of subject tract is currently in agricultural production and has been historically. Primary crops would have been and are small grains such as winter wheat, spring wheat, or barley.”

Comment received from the Flathead Conservation District indicates concerns regarding the loss of prime farmland. The comment states, “Some of the area proposed for subdivision is identified as Prime Farmland and Prime Farmland if Irrigated. These farmlands are not plentiful and account for only approximately 1 percent of total acreage by soil classification in Flathead County. According to census data, farmable acreage and food production are decreasing in Flathead County. If developed it will result in permanent loss of important agricultural land and may have future impacts on regional food security and access to locally produced crops.”

The EA indicates there are no shared agricultural water works, canals, irrigation ditches, or pump houses on the property and the property is not located within an agricultural water district or area.

The proposed subdivision is not anticipated to conflict with access to or use of adjacent agricultural land. However, to prevent potential future conflicts between the adjacent agricultural land and future lot owners, a statement should be placed on the final plat alerting potential buyers of the possibility of nearby agricultural activities and associated impacts.

Finding #1 – There would be minimal impact on agriculture and agricultural water user facilities as a result of the proposed subdivision because although the subject property has historically been used for agriculture and contains soil types classified as prime farmland, there would be minimal impacts to adjacent agricultural facilities and water user facilities as a result of the proposed subdivision because adjacent properties are not dependent upon the subject property for continued agricultural use, and the property has no irrigation infrastructure on site, is not in an irrigation district, and is not party to any irrigation agreements.

2. Local Services

a. Water and Wastewater Services

The proposed subdivision is not located adjacent to public water or wastewater services and instead will be served by individual wells and individual septic systems. Comment received from the Flathead City-County Health Department states, “The proposed subdivision is subject to review under Title 76-4 Part 1, Sanitation in Subdivision, MCA. This review will address water supply, wastewater, storm water drainage and solid waste disposal. This area may have perched groundwater and groundwater monitoring may be required during the monitoring season (March-June).”

The EA states, “Enviro-Tech Consulting excavated and logged total of 25 test holes excavated on the subject property and adjoining property in 2006-2008. All test holes were excavated to a depth of 8 feet or more. At the time of excavation, groundwater was not encountered in any of the test holes. Signs of groundwater, mottling, etc. was observed in one test hole (TH#3). See data and profiles in Appendix C. TD&H Engineering excavated and logged 8 test holes in September, 2021. 7 of the 8 test holes were excavated to a depth of 8 feet or more. Groundwater was not encountered in any of the test holes. Signs of groundwater, mottling, etc. was observed in one test hole (TP-1). See data and profiles in Appendix C.” A preliminary analysis submitted with the application indicates the proposed water and wastewater systems would meet the Montana Department of Environmental Quality standards.

b. Solid Waste Disposal

The developer is proposing contract haul as a mechanism for solid waste disposal as requested of all subdivisions by the Flathead County Solid Waste District. Comment received from the Flathead County Solid Waste District noted that Evergreen Disposal is the Public Service Commission (PSC) licensed hauler responsible for solid waste disposal in this area.

Finding #2 – The proposed subdivision would have minimal impact on water, wastewater, and solid waste disposal services as the property is not located within a water and sewer district, the proposed subdivision would utilize individual wells

and individual septic systems, the water and wastewater systems would be required to be reviewed and approved by the Flathead City-County Health Department and the Montana Department of Environmental Quality, and lots within the subdivision would utilize contract haul services for solid waste disposal.

c. Roads

Primary access to the subdivision is from Patriots Lane via Middle Road. Patriots Lane is a private, unpaved road within a 60-foot-wide easement, and Middle Road is a paved, County-maintained road within a 60-foot-wide easement. Patriots Lane would be extended as an internal subdivision road to provide access to each lot within the subdivision. The EA states, “All roads within the subdivision and accessing Middle Road will be maintained by the Homeowners Association.” The developer would be required to provide a Road Users Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision, prior to final plat approval. A draft Road Users Agreement was submitted with the preliminary plat application.

According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, single-family dwellings typically generate approximately 10 average daily trips (ADT). The subdivision would create 8 residential lots and would therefore add approximately 80 ADT to the road network. The most recent traffic counts for Middle Road were collected in 2014 and indicated 480 ADT in the vicinity of the proposed subdivision. The addition of 80 vehicle trips would increase traffic on Middle Road by approximately 16.7%.

Patriots Lane and the proposed internal subdivision road would be paved and constructed in accordance with the Flathead County Road and Bridge Department’s ‘Minimum Standards for Design and Construction Manual’. The Flathead County Road and Bridge Department had no comments regarding the proposal. It is anticipated an updated approach permit would be required from the Flathead County Road and Bridge Department for the approach onto Middle Road.

Finding #3 – Impacts on area roads would appear to be acceptable with the imposition of conditions as the proposed subdivision has the potential to increase traffic by 80 ADT, Patriots Lane and the proposed internal subdivision road would be paved and constructed to Flathead County Road and Bridge Department standards, a road maintenance mechanism would be required for Patriots Lane and all internal subdivision roads, and an updated approach permit from the Flathead County Road and Bridge Department would be required for the approach onto Middle Road.

d. Schools

The proposal is located in the Columbia Falls School District. According to the 2019 Census Data there are 49,531 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2020 states there are 16,758 students enrolled in County schools. The total students (16,758) divided by the total housing units (49,531) equals approximately 0.34 students per household. Therefore, eight residential lots could generate approximately three school age children.

Comment received from the Columbia Falls School District stated there is bus service in the area and did not indicate any concerns regarding the proposed subdivision. It is anticipated the number of students generated by this proposal could be served without introducing significant impacts to the school districts.

e. Mail Delivery

The application indicates centralized mailboxes will serve the proposed subdivision. The location of the mailboxes serving the proposed subdivision shall require review and written approval from the local postmaster as a condition of final plat approval and should meet the location requirements outlined in Section 4.7.28 FCSR.

f. Recreation

Pursuant to Section 4.7.24(a)(i) FCSR, parkland dedication is not required for subdivisions which create lots that are greater than five gross acres in size. All eight lots within the subdivision are over five gross acres, thus, parkland dedication is not required.

The Flathead County Trails Plan does not designate Patriots Lane, the primary access road, as a proposed trail. The Plan designates Middle Road as a proposed connector trail, however, the Middle Road does not abut the subdivision boundaries, thus, no easement is required for a pedestrian and bicycle path in accordance with Section 4.7.19 FCSR.

Finding #4 – Impacts on local services with regard to schools, mail delivery and recreation would appear to be acceptable as the proposed subdivision would add approximately three students to the local school district, the applicant will be required to submit written approval from the local postmaster prior to final plat approval, and no parkland dedication or pedestrian and bicycle path easements would be required.

3. Public Health And Safety

a. Storm Water Drainage

The EA states, “The storm water from the development will be managed through a combination infiltration swale and ditch along the access roadways. This ditch system will convey storm water to the natural low points of the road design then to a detention pond. Drywells may be installed at low points providing additional infiltration if required. Cross connecting culverts will eliminate possibilities of overtopping or flooding. Storm drainage on the lots will be addressed at the time of individual lot development.” A conceptual storm water management plan was submitted with the preliminary plat application in conformance with Section 4.7.13 FCSR.

The proposed storm water management plan will be required to be reviewed and approved by the Montana Department of Environmental Quality for compliance with state standards prior to final plat approval.

Finding #5 – Impacts from storm water runoff will be acceptable because storm water generated by impervious surfaces within the proposed subdivision will be accommodated via roadside swales and the proposed storm water management plan

will require review and approval through the Flathead City-County Health Department and the Montana Department of Environmental Quality.

b. Fire/Emergency Medical Services

The subject property is located within the Bad Rock Fire District and the Bad Rock Volunteer Fire Department is located approximately 2.8 driving miles northeast of the proposed subdivision, along Highway 206. The Bad Rock Fire District did not provide comment on the proposal. A letter from the local fire district will be required prior to final plat approval ensuring the improvements have been made in compliance with applicable fire suppression requirements.

The subject property is located within the Wildland Urban Interface (WUI), but is not located within a high or extreme Countywide Priority Area. A Fire Prevention, Control and Fuels Reduction Plan was provided with the preliminary plat application, pursuant to Section 4.7.27(b) FCSR. The plan states, “The proposed subdivision would appear to have minimal impact to the local fire protection authority because it contains only eight new lots with a very low density land use. Eight new dwellings and complimentary structures are proposed with large areas of open space. This type of development of this area will generally perpetuate the existing agricultural nature and will provide fire breaks with the private road access & maintenance policies and fire resistant landscape planning. The subdivision will follow the protection zone guidelines for development within the Wildland-Urban Interface to reduce the risk of wild fires being fueled by the area.”

Prior to final plat approval, the applicant will be required to provide written correspondence from the local fire district verifying the Fire Prevention, Control and Fuels Reduction Plan has been approved and implemented. Statements regarding the WUI will be required on the face of the final plat.

c. Police Services

The proposed subdivision is located in an unincorporated area of Flathead County and is therefore served by the Flathead County Sheriff’s Office. The Flathead County Sheriff’s Office did not provide comment regarding the proposed subdivision. The combination of existing staff levels, shift rotations, size of the County, the dispersed nature of the population, and the property’s distance from the Flathead County Sheriff’s Office in Kalispell may lead to delayed response times in the event of an emergency.

Finding #6 – Impacts on fire, emergency medical, and police services would be minimal with the imposition of conditions because the subject property would be served by the Flathead County Sheriff’s Office and the Bad Rock Fire District, the applicant will be required to implement an approved Fire Prevention, Control and Fuels Reduction Plan prior to final plat approval, and statements regarding the WUI would be required on the face of the final plat.

d. Impact of Noise

While some noise and vibration will probably result from construction, these impacts will be limited in duration and should not negatively impact the surrounding area. No noise beyond what is typical for a residential area is anticipated as a result of the proposed subdivision. The proposed residential use is

not anticipated to generate permanent continuous noise impacting area residents or wildlife.

e. Air Quality

Primary access to the subdivision would be from a proposed internal subdivision road and Patriots Lane, both of which would be paved, via Middle Road, which is an existing paved road.

The proposed subdivision would not generate any additional dust except during construction activities. The applicant submitted a Dust Control Plan compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that requires the owners of all lots to abide by the guidelines set forth in the plan during and after site construction and development activities.

Finding #7 – Impacts to air quality and noise are anticipated to be minimal with the imposition of conditions because impacts of noise from the residential development are not expected to extend beyond property lines, the primary access roads to the subdivision would be paved, and a Dust Control Plan will be required to mitigate potential issues of dust during construction.

f. High Voltage Electric Lines/High Pressure Gas Lines

There are no high pressure gas lines or high voltage electrical lines on the subject property.

g. Airport Influence Areas

The subject property is not within an airport influence area.

Finding #8 – Impacts to public health and safety from high voltage electric lines, high pressure gas lines, or airport influence areas are not anticipated because no high voltage electric lines or high pressure gas lines are located on the subject property and the property is not located within an airport influence area.

4. Natural Environment

a. Soils

Soil survey data from the USDA Natural Resources Conservation Service (NRCS) shows soil types on the subject property consist of Blanchard fine sand, 0 to 7 percent slopes (Be), Blanchard fine sand, 7 to 12 percent slopes (Bg), Blanchard fine sand, 7 to 12 percent slopes, wind eroded (Bh), Blanchard loamy fine sand, 3 to 7 percent slopes (Bo), and Half Moon silt loam, 0 to 3 percent slopes (Ha). According to the soil report, approximately 42.5% of the property is comprised of 'Ha' soils which are classified as prime farmland. The soil types located on the subject property are classified as well and excessively drained and not prone to ponding or flooding. The EA states, "No shallow bedrock, high water table, unstable or expansive soil conditions, or steep slopes exist on the subject property."

b. Geologic/Avalanche Hazards

According to ground contours shown on the preliminary plat, the subject property is comprised of gently rolling terrain with no steep slopes. The EA states, "No known geologic hazards exist within the subject property." The property is not located in an area of the County considered to be prone to avalanche hazards.

Finding #9 – No impacts from soils and geological and avalanche hazards are anticipated because soil types on the subject property are classified as well and excessively drained and appear suitable for development, the property is located in an area of gently rolling terrain, and there is no evidence of unstable soils, rock outcroppings, falls or slides on the property.

c. Flora

The subject property is primarily agricultural with some native grasses and timbered areas. According to the Fire Prevention, Control and Fuels Reduction Plan, “The timberland area is populated with a large native tree stand which may be best described as dry montane forest. Species include Ponderosa pine, Douglas fir, and Paper birch.” The Montana Natural Heritage Program report identifies 12 plant species of concern and 6 potential plant species of concern in the township and range of the proposed subdivision. The species of concern in the vicinity include: Meadow Horsetail, Whitebark Pine, English Sundew, Latah Tule Pea, Kalm’s Lobelia, Northern Buttercup, Spalding’s Catchfly, Sparrow’s-egg Lady’s-slipper, Slender Cottongrass, Short-beaked Aloe Moss, Black Golf Club Moss, and Britton’s Dry Rock Moss. The EA states, “No known critical plant communities or trees are currently located on the subject property.”

The prevention of noxious weeds is particularly important with regard to construction and development. Pursuant to Section 4.7.25 FCSR, an approved Weed Control Plan, applicable to all lots, will be required as a condition of final plat approval.

d. Riparian/Wetland Areas

According to the National Wetlands Inventory (NWI) Wetlands Mapper, the subject property does not contain wetlands. The National Hydrography Dataset does not illustrate any streams on the Flathead County GIS Interactive Mapping Application (IMA). The EA states, “An ephemeral stream/natural drainage crosses the northeast corner of the subject property. Nature/activity of drainage is based on conversations with the owner and their historical observations.” Pursuant to Section 4.7.11 FCSR, vegetative buffers and riparian resource management plans are required for perennial and intermittent streams, not ephemeral streams.

e. Floodplain

According to FEMA FIRM Panel 30029C1435J, the subject property is mapped as unshaded Zone X. Zone X is defined as areas outside of the 0.2% annual chance flood hazard area.

Finding #10 – Impacts to the natural environment as a result of the proposed subdivision are expected to be minimal because the applicant will be required to provide an approved Weed Control Plan prior to final plat approval, and the subject property does not appear to contain wetlands, riparian areas, or floodplain.

5. Wildlife and Wildlife Habitat

The Montana Natural Heritage Program report identifies 21 species of concern in the township and range of the proposed subdivision. The species of concern in the vicinity include: Townsend’s Big-eared Bat, Wolverine, Hoary Bat, Canada Lynx, Little Brown Myotis, Fisher, Western Pygmy Shrew, Grizzly Bear, Great Blue Heron, Veery,

Evening Grosbeak, Bobolink, Pileated Woodpecker, Peregrine Falcon, Varied Thrush, Western Toad, Westslope Cutthroat Trout, Pygmy Whitefish, Bull Trout, Smoky Taildropper, and A Cabe Obligate Isopod. The Bald Eagle is listed as a special status species. Some of these species reside in habitats which are not located on the subject property such as caves, boreal forests, alpine habitats, riparian, subalpine conifer forests, riparian forests, moist grasslands, cliffs/canyons, wetlands, floodplain pools, mountain streams, rivers, and lakes, and cave springs.

The EA states, “White-tailed deer, elk, black bear, upland game birds such as ring necked pheasant, grouse and turkey may frequent this and adjoining areas despite residential development. Considering the current usage of property, any wildlife presence on the property would most likely be of a transitory nature. Yearly farming patterns and crop rotation would not provide the necessary cover for anything of a more permanent nature.” Additionally, the EA indicates the proposed development density would maintain sufficient open space for wildlife to occupy or traverse the area.

Given the rural location, the size of the subject property, and the proximity to the Flathead River, some level of impact to wildlife can be expected as a result of the proposed subdivision. Based upon information provided by Montana Fish, Wildlife and Parks (FWP), the area of the County in which the subdivision is located serves as an important wildlife movement corridor for numerous wildlife species. The comment states, “In general, FWP recommends consolidated housing and leaving ‘natural’ or open areas for wildlife. By consolidating housing and leaving open areas, the overall developed footprint is minimized, allowing for some movement and use of the open areas by wildlife. The current plat proposal does not provide for open space.” FWP recommended conditions to include in the subdivision CC&Rs to mitigate human-wildlife conflicts. Ensuring the future lots owners are aware of their surroundings and the presence of wildlife in and around the subject property would help to mitigate potential conflicts, and could be addressed by including mitigation measures in the subdivision CC&Rs.

Finding #11 – The proposed subdivision would likely have a minimal impact on wildlife and wildlife habitat because, although there are 21 animal species of concern associated with the area and the property is located within a wildlife movement corridor, the property is primarily farmland which does not contain habitat species of concern generally reside in, the relatively large lots sizes would allow for the preservation of wildlife movement, and human-wildlife conflict could be minimized by implementing the recommendations by Montana Fish, Wildlife and Parks into CC&Rs for the subdivision.

6. Historical Features

The applicant contacted the State Historical Preservation Office (SHPO) which has no record of any historical or culturally significant use on the subject property. The Environmental Assessment indicates there are no known historical, archeological, or cultural sites on the subject property.

Finding #12 – The proposed subdivision would not adversely impact historical features because there are no known historical, archeological, or cultural sites on the subject property.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #13 – The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations and Review Procedure

1. Requested Variances

No variances have been requested with this application.

2. Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

October 21, 2021

ii. Application Deadline Date (6 months from pre-application)

April 21, 2022

iii. Application Submittal Date

November 4, 2021

iv. Completeness Date

November 18, 2021

v. Sufficiency Date

December 9, 2021

vi. Agency Referral Requests Mailing Date

December 10, 2021

vii. Adjacent Property Notification Mailing Date

January 19, 2022

viii. Legal Notice Publication Date

January 23, 2022

ix. On-site Posting of Public Hearing Date

January 24, 2022

Finding #14 – The proposed subdivision has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.

D. Provision of Easements for the Location and Installation of Planned Utilities

Finding #15 – The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

E. Provision of Legal and Physical Access to Each Parcel

An existing written easement for the 60-foot-wide private road and utility easement, shown as Patriots Lane on the preliminary plat, was submitted with the application. Patriots Lane would provide access to the subdivision via Middle Road, and a proposed internal subdivision road would provide access to each lot within the subdivision. Patriots Lane and the proposed internal subdivision road will be required to be designed and constructed to the Flathead County Minimum Standards for Design and Construction, and an updated

approach permit will be required from the Flathead County Road and Bridge Department for the approach onto Middle Road.

Finding #16 – The preliminary plat includes adequate provisions for legal and physical access to the subdivision and all lots within it because Patriots Lane would provide access to the subdivision via Middle Road, and the proposed internal subdivision road would provide access to each lot within the subdivision.

F. Review of Applicable Plans

76-1-605(2)(b) M.C.A states that “A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.” Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

1. Neighborhood Plan

The subject property is not located within a neighborhood plan area.

2. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, MCA and was updated on October 12, 2012. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

G. Compliance with Local Zoning

The proposed subdivision is located in an area of Flathead County that is not zoned.

Finding #17 – The proposed subdivision generally complies with the Flathead County Growth Policy and the zoning regulations because the proposed subdivision is not zoned, and proposal conforms to the regulations used in the review of subdivision in Flathead County.

V. SUMMARY OF FINDINGS

1. There would be minimal impact on agriculture and agricultural water user facilities as a result of the proposed subdivision because although the subject property has historically been used for agriculture and contains soil types classified as prime farmland, there would be minimal impacts to adjacent agricultural facilities and water user facilities as a result of the proposed subdivision because adjacent properties are not dependent upon the subject property for continued agricultural use, and the property has no irrigation infrastructure on site, is not in an irrigation district, and is not party to any irrigation agreements. [Condition 18]
2. The proposed subdivision would have minimal impact on water, wastewater, and solid waste disposal services as the property is not located within a water and sewer district, the proposed subdivision would utilize individual wells and individual septic systems, the water and wastewater systems would be required to be reviewed and approved by the

Flathead City-County Health Department and the Montana Department of Environmental Quality, and lots within the subdivision would utilize contract haul services for solid waste disposal. [Conditions 7, 9, 12]

3. Impacts on area roads would appear to be acceptable with the imposition of conditions as the proposed subdivision has the potential to increase traffic by 80 ADT, Patriots Lane and the proposed internal subdivision road would be paved and constructed to Flathead County Road and Bridge Department standards, a road maintenance mechanism would be required for Patriots Lane and all internal subdivision roads, and an updated approach permit from the Flathead County Road and Bridge Department would be required for the approach onto Middle Road. [Conditions 4, 5, 20, 21]
4. Impacts on local services with regard to schools, mail delivery and recreation would appear to be acceptable as the proposed subdivision would add approximately three students to the local school district, the applicant will be required to submit written approval from the local postmaster prior to final plat approval, and no parkland dedication or pedestrian and bicycle path easements would be required. [Condition 8]
5. Impacts from storm water runoff will be acceptable because storm water generated by impervious surfaces within the proposed subdivision will be accommodated via roadside swales and the proposed storm water management plan will require review and approval through the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Conditions 7, 14]
6. Impacts on fire, emergency medical, and police services would be minimal with the imposition of conditions because the subject property would be served by the Flathead County Sheriff's Office and the Bad Rock Fire District, the applicant will be required to implement an approved Fire Prevention, Control and Fuels Reduction Plan prior to final plat approval, and statements regarding the WUI would be required on the face of the final plat. [Conditions 2, 18, 19]
7. Impacts to air quality and noise are anticipated to be minimal with the imposition of conditions because impacts of noise from the residential development are not expected to extend beyond property lines, the primary access roads to the subdivision would be paved, and a Dust Control Plan will be required to mitigate potential issues of dust during construction. [Conditions 4, 10, 21]
8. Impacts to public health and safety from high voltage electric lines, high pressure gas lines, or airport influence areas are not anticipated because no high voltage electric lines or high pressure gas lines are located on the subject property and the property is not located within an airport influence area.
9. No impacts from soils and geological and avalanche hazards are anticipated because soil types on the subject property are classified as well and excessively drained and appear suitable for development, the property is located in an area of gently rolling terrain, and there is no evidence of unstable soils, rock outcroppings, falls or slides on the property.
10. Impacts to the natural environment as a result of the proposed subdivision are expected to be minimal because the applicant will be required to provide an approved Weed Control Plan prior to final plat approval, and the subject property does not appear to contain wetlands, riparian areas, or floodplain. [Conditions 3, 12]

11. The proposed subdivision would likely have a minimal impact on wildlife and wildlife habitat because, although there are 21 animal species of concern associated with the area and the property is located within a wildlife movement corridor, the property is primarily farmland which does not contain habitat species of concern generally reside in, the relatively large lots sizes would allow for the preservation of wildlife movement, and human-wildlife conflict could be minimized by implementing the recommendations by Montana Fish, Wildlife and Parks into CC&Rs for the subdivision. [Condition 22]
12. The proposed subdivision would not adversely impact historical features because there are no known historical, archeological, or cultural sites on the subject property.
13. The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval. [Condition 13]
14. The proposed subdivision has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.
15. The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations. [Condition 13]
16. The preliminary plat includes adequate provisions for legal and physical access to the subdivision and all lots within it because Patriots Lane would provide access to the subdivision via Middle Road, and the proposed internal subdivision road would provide access to each lot within the subdivision.
17. The proposed subdivision generally complies with the Flathead County Growth Policy and the zoning regulations because the proposed subdivision is not zoned, and proposal conforms to the regulations used in the review of subdivision in Flathead County.

VI. CONCLUSION

In accordance with the provisions of Section 4.4 of the Flathead County Subdivision Regulations, a review and evaluation of the major subdivision application has been completed by the staff of the Flathead County Planning and Zoning Office. The proposed subdivision appears to generally comply with the subdivision review criteria found in Section 4.7 FCSR, pursuant to the draft Findings of Fact prepared herein, or identified impacts can be mitigated with conditional of approval. Should the Flathead County Board of Commissioners choose to grant preliminary plat approval of this subdivision, the following draft conditions should be considered to supplement the decision and mitigate impacts anticipated as a result of the subdivision.

VII. CONDITIONS OF APPROVAL

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Sections 4.7.16(g)(iv), 4.7.26(c) FCSR]
2. The developer shall comply with reasonable fire suppression and access requirements of the Bad Rock Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b) FCSR and Finding of Fact (FOF) 6]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25 FCSR and FOF 10]
4. Design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the Flathead County Minimum Standards for Design and Construction, as applicable. [Sections 4.7.16, 4.7.17 FCSR and FOF 3, 7]
5. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR and FOF 3]
6. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23 FCSR]
7. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department, and approved by the Montana Department of Environmental Quality. [Sections 4.7.20 and 4.7.21 FCSR and FOF 2, 5]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28 FCSR and FOF 4]
9. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22 FCSR and FOF 2]
10. The owners shall abide by the guidelines set forth in the approved Dust Control Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 7]
11. All road names shall be approved by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
12. The following statements shall be placed on the face of the final plat applicable to all lots:

- a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23 FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust Control Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 7]
 - d. Solid waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22 FCSR and FOF 2]
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [Section 4.7.25 FCSR and FOF 10]
- 13. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i) M.C.A. and FOF 13, 15]
 - 14. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.) and FOF 5]
 - 15. All required improvements shall be in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16 FCSR]
 - 16. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13 FCSR]
 - 17. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

- 18. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. This subdivision is located in an agricultural area and potential nuisances such as noise, dust, odors, and irregular hours of operation are commonplace. As such, the right to farm on adjoining properties will not be restricted as a result of the development or occupancy of this subdivision. [FOF 1]
 - b. This subdivision is located in the Wildland Urban Interface area where wildfires can and do occur. [Section 4.7.27(a)(ii)(A), FCSR and FOF 6]

- c. Only Class A and Class B fire-rated roofing materials are allowed. [Section 4.7.27(a)(ii)(B), FCSR and FOF 6]
 - d. Firewise defensible space standards shall be incorporated around all RV spaces, primary structures and improvements. [Section 4.7.27(a)(ii)(C), FCSR and FOF 6]
 - e. All road names are assigned by the Flathead County Address Coordinator. House numbers shall be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in height per number. [Section 4.7.27(a)(ii)(D), FCSR and FOF 6]
- 19.** Prior to final plat approval, the applicant shall provide written documentation from the local fire protection authority verifying the approved Fire Prevention, Control and Fuels Reduction Plan has been implemented. [Section 4.7.27(b)(iii) FCSR and FOF 6]
- 20.** Prior to final plat approval, the applicant shall provide an updated approach permit from the Flathead County Road and Bridge Department for the approach onto Middle Road. [Section 4.7.16 FCSR and FOF 3]
- 21.** Prior to final plat approval, the applicant shall improve the entire length of Patriots Lane between Middle Road and the eastern boundary of the subdivision, which shall be certified by a licensed engineer and constructed and paved in accordance with the Flathead County Minimum Standards for Design and Construction, as applicable. [Sections 4.7.17 FCSR and FOF 3, 7]
- 22.** Prior to final plat approval, the applicant shall provide CC&Rs which include the wildlife recommendations outlined in the comment from Montana Fish, Wildlife and Parks to minimize potential for conflicts between future lot owners and wildlife. [FOF 11]

Planner: EA